

§ 752.3

§ 752.3 Eligible items.

(a) All items subject to the EAR, including items eligible for License Exceptions described in part 740 of the EAR, are eligible for export and reexport under the SCL, except:

(1) Items controlled for missile technology reasons that are identified by the letters MT in the applicable “Reason for Control” paragraph on the Commerce Control List (CCL) (see Supplement No. 1 to part 774 of the EAR);

(2) Items controlled by ECCNs 1C351, 1C352, 1C353, 1C354, 1C991, 1E001, 2B352, 2E001, 2E002, and 2E301 on the CCL controlled for CB reasons;

(3) Items controlled by ECCNs 1C350, 1C995, 1D390, 1E350, 1E351, 2B350, and 2B351 on the CCL that can be used in the production of chemical weapons precursors and chemical warfare agents, to destinations listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR);

(4) Items controlled for short supply reasons that are identified by the letters “SS” in the applicable “Reason for Control” paragraph on the CCL;

(5) Items controlled for EI reasons on the CCL;

(6) Maritime (civil) nuclear propulsion systems or associated design or production software and technology identified in § 744.5 of the EAR;

(7) Communications intercepting devices and related software and technology controlled by ECCN 5A980, 5D980, or 5E980 on the CCL;

(8) Hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1. through a.12. .f, and related controls;

(9) Items specifically identified as ineligible by BIS on your approved SCL; and

(10) Additional items consistent with international commitments.

(b) Items controlled for nuclear non-proliferation reasons that are identified by the letters NP in the applicable “Reason for Control” paragraph on the CCL may be authorized on a case-by-case basis provided controls are in

15 CFR Ch. VII (1–1–07 Edition)

place to screen for proscribed end-users or end-uses.

[61 FR 12835, Mar. 25, 1996, as amended at 61 FR 54543, Oct. 21, 1996; 62 FR 25463, May 9, 1997; 63 FR 42229, Aug. 7, 1998; 63 FR 50525, Sept. 22, 1998; 64 FR 13339, Mar. 18, 1999; 69 FR 5691, Feb. 6, 2004; 71 FR 67037, Nov. 20, 2006]

§ 752.4 Eligible countries.

(a) *General provisions.* All countries are eligible under the SCL except:

(1) Cuba, Iran, Iraq, North Korea, Sudan, and Syria.

(2) Other countries that BIS may designate on a case-by-case basis as ineligible to receive items under the SCL.

(b) *Servicing prohibitions.* Under the SCL, you may not service any item when you know that the item is owned or controlled by, or under the lease or charter of, entities in countries identified in paragraphs (a)(1) and (a)(2) of this section or any national of such countries.

[61 FR 12835, Mar. 25, 1996, as amended at 71 FR 51719, Aug. 31, 2006]

§ 752.5 Steps you must follow to apply for an SCL.

(a) *Step One: Establish applicant reliability—*(1) *Pre-application consultation.* To apply for an SCL, BIS must determine your reliability as a potential SCL holder. BIS usually does this through consultation with company officials and a review of the criteria identified in paragraph (a)(2) of this section. To determine whether your company requires a consultation before you apply for an SCL, contact BIS at the address, phone, or telefacsimile numbers included in § 752.17 of this part.

(2) *Criteria for determining eligibility.* BIS will review the following criteria to help determine SCL holder eligibility:

(i) Evidence of past licensing history and projected, continuous large volume exports;

(ii) Reliability of all parties relative to their compliance with the EAR;

(iii) Commitment of all parties of the necessary resources to implement and maintain an adequate ICP; and

(iv) Evidence of all parties knowledge of all provisions of the EAR.

(b) *Step Two: Establish consignee reliability—*(1) *Requirements.* You must

make an initial determination of the reliability of all consignees that are listed on your application for an SCL, based upon the criteria described in paragraph (b)(2) of this section.

(2) *Determining reliability.* The criteria that you should take into consideration include, but are not limited to, the following:

(i) *Criteria.* (A) The proposed consignee has a satisfactory record established through BIS pre-license checks, or extensive experience as a consignee under any license issued by BIS;

(B) The proposed consignee is a wholly-owned subsidiary or a controlled-in-fact affiliate of the applicant or of a consignee that is already approved on an SCL. See part 772 of the EAR for a definition of controlled-in-fact; or

(C) You have evidence of an established, on-going business relationship with the proposed consignee.

(ii) *Exception.* The provisions of paragraph (b)(2)(i) of this section do not preclude the authority of BIS to determine the reliability and eligibility of a proposed consignee. BIS may, based upon any negative information on the proposed consignees, deny a proposed consignee.

(c) *Step Three: Prepare your documentation.* Complete Form BIS-748P, Multipurpose Application, Form BIS-748P-A, Item Appendix, Form BIS-748P-B, End-User Appendix, an ICP, a comprehensive narrative statement, Form BIS-752, Statement by Consignee in Support of Special Comprehensive License, Form BIS-752-A, Reexport Territories, and all applicable certifications. Submit this documentation to BIS at one of the addresses included in § 752.17 of this part.

(1) *Form BIS-748P, Multipurpose Application, and Form BIS-748P-A, Item Appendix.* You must complete Form BIS-748P and Form 748P-A according to the instructions found in Supplement Nos. 1 and 2 of this part.

(2) *Form BIS-748P-B, End-User Appendix.* You must identify end-users on Form BIS-748P-B if you are requesting approval to export or reexport items controlled for nuclear nonproliferation or chemical and biological control reasons.

(3) *ICP.* You must provide a copy of your proposed ICP as required by

§ 752.11 of this part. You must indicate whether any of the elements of the ICP will not be implemented and explain why these elements were deemed inapplicable. Existence of a properly constructed ICP will not relieve you of your responsibility to comply with requirements of all applicable regulations pertaining to your SCL;

(4) *Comprehensive narrative statement.* Prepare a comprehensive narrative statement on your company letterhead that includes the following information:

(i) An overview of the total business activity that will be performed by you and all other parties who will receive items under the authority of your SCL, including consignees, subcontractors, and vessels;

(ii) A description of the nature and anticipated volume of regular and repetitive transactions proposed by consignees under the license;

(iii) An explanation of the relationship between the parties to the application, such as affiliate, subsidiary, or parent, etc;

(iv) A certification that you will implement, upon approval of the application by BIS, an ICP that incorporates all applicable elements listed in § 752.11 of this part and any additional elements as required by BIS upon approval of the SCL; and

(v) Information on whether proposed consignees are end-users or will reexport the items received under your SCL. You must describe the proposed consignee's activities completely to determine the appropriate ICP elements that you and your consignees must implement.

(5) *Form BIS-752, Statement of Consignee in Support of Special Comprehensive License.* This Form is completed by each consignee. You must submit one completed, signed, original Form BIS-752 for each proposed consignee on your SCL application. See Supplement No. 3 to this part for instructions on completing Form BIS-752. Form BIS-752 is not required if the proposed consignee is both an end-user and a "foreign government agency" as defined in part 772 of the EAR.

(6) *Form BIS-752-A, Reexport Territories.* You must complete Form BIS-752-A, and attach it to the appropriate

§ 752.6

15 CFR Ch. VII (1–1–07 Edition)

Form BIS-752, whenever Blocks 8B, 8C, 8E, and/or 8F are selected on Form BIS-752. See the instruction found in Supplement No. 3 to this part. Form BIS-752-A is not required if the proposed consignee is both an end-user and a foreign government agency (see part 772 of the EAR for a definition of foreign government agency).

(7) *Consignee certifications.* Each consignee must provide certain certifications on company letterhead that is signed by the consignee. Attach certifications to the appropriate Form BIS-752. Each consignee must certify that:

(i) They will implement, upon approval of the SCL by BIS, an ICP that incorporates all applicable elements listed in § 752.11 of this part and any additional elements as required by BIS upon approval of your SCL. If certain elements of an ICP will not be included, state the reasons for that determination;

(ii) They will comply with all provisions of the EAR, including the record-keeping provisions of part 762 of the EAR, all applicable system review requirements of § 752.14 of this part, and the reexport restrictions of § 752.6 of this part; and

(iii) They will make available for inspection, upon request by BIS, all records required by § 752.12 of this part and part 762 of the EAR.

(8) *Additional certifications.* (i) *Temporary exports.* Proposed consignees that plan to exhibit or demonstrate items in countries other than those in which they are located or are authorized under an SCL, an approved Form BIS-752, or a License Exception provision described in § 740.8(a)(2)(iii) of the EAR may obtain permission to do so by including the following additional certification on company letterhead, and attaching it to Form BIS-752.

I (We) request authorization to reexport temporarily, for exhibit or demonstration in countries eligible to receive items under the Special Comprehensive License. The items exported will be retained under my (our) ownership and control, and will be returned by me (us) to (name destination) promptly after their exhibit or demonstration abroad, and in no case later than one year after the date of reexport, unless other disposition is authorized in writing by the Bureau of Industry and Security.

(ii) *Chemicals and chemical equipment certification.* If you are requesting authority to export chemicals or chemical equipment eligible for the SCL, you must obtain a signed written statement on company letterhead from the proposed consignee(s) and end-user(s) (except those located in Country Group A:3) (see Supplement No. 1 to part 740 of the EAR) certifying the following:

No chemicals or chemical equipment received under this Special Comprehensive License will be transferred, resold, or reexported to a destination that requires a license, unless the new end-user has been approved by the Bureau of Industry and Security, and in no case will the items be retransferred, resold, or reexported to a party who is not the end-user.

(iii) *Nuclear nonproliferation certification.* If you are requesting the export or reexport under the EAR of items controlled for nuclear nonproliferation reasons described in § 744.2(a) of the EAR, prior to submitting an SCL application, you must obtain a signed written statement on company letterhead from the proposed consignee(s) and end-user(s) certifying the following:

(A) The items to be exported or replicas thereof (“replicas” refer to items produced abroad based on physical examination of the items originally exported, matching it in all critical design and performance parameters), will not be used in any of the activities described in § 744.2 of the EAR; and

(B) Written authorization will be obtained from BIS prior to transferring or reexporting the items, unless they are destined to Canada or would not require a license to the new country of destination.

[61 FR 12835, Mar. 25, 1996, as amended at 61 FR 64285, Dec. 4, 1996; 62 FR 25463, May 9, 1997]

§ 752.6 Reexports.

(a) *Authorized reexports.* All consignees may reexport items without approval from BIS under any one of the following circumstances, unless otherwise specifically excluded by the provisions of the EAR or by a condition placed on your SCL.

(1) Reexports that qualify for a License Exception authorized by part 740 of the EAR;